

DUISTERS – U.S. Pat. Appln. No. 10/807,408
Attorney Docket No.: 081468/0308928

- D R A F T AMENDMENT -

REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

In the Office Action dated October 31, 2005, the Examiner rejected claims 1-12, 21, and 25-32, under 35 U.S.C. §102(b), as allegedly being anticipated by Suzuki '109 (U.S. Patent Pub. No. 2002/0012109); rejected claim 13, under 35 U.S.C. §103(a), as allegedly being unpatentable in view of Suzuki '109 and Hunter '598 (U.S. Patent Pub. No. 2005/0199598); rejected claims 14, 22, and 23, under 35 U.S.C. §103(a), as allegedly being unpatentable in view of Suzuki '109 and Taniguchi '863 (U.S. Patent Pub. No. 2002/0008863); rejected claims 15-20, and 24, under 35 U.S.C. §103(a), as allegedly being unpatentable in view of Suzuki '109 and Murayama '006 (U.S. Patent. No. 6,341,006).

By this Amendment, Applicants have amended claims 1, 14, 27, 29, and 31 to provide a clearer presentation of the claimed subject matter and have cancelled claim 20, without prejudice or disclaimer. Applicants submit that no new matter has been introduced. As such, claims 1-12 and 13-32 are currently presented for examination, of which claims 1, 27, 29, and 31 are independent.

Applicants respectfully traverse the prior art rejections, under 35 U.S.C. §103(a), for the following reasons:

I. Prior Art Rejections Under 35 U.S.C. §102(b), §103(a).

As indicated above, amended independent claim 1 now positively recites that the first housing includes a first chamber, a first optically transmissive window, a second optically transmissive window, and at least one moveable lens positioned inside the first chamber in which the movement of the moveable lens within the first chamber is contactlessly guided by at least one gas bearing. These features are amply supported

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by the embodiments described in the Specification. (*See, e.g., Specification*, par. [0099] – [0106]; FIGs. 4, 5).

Unlike the present invention, there is nothing in the references of record that teach the combination of features recited in claim 1. In particular, the Examiner acknowledged that the Suzuki '109 reference fails to disclose the use of air bearings. (*See*, Office Action, pages 7-8). The Examiner, therefore, relied on the Hunter '598 reference as allegedly teaching this feature. Applicants submit, however, that Hunter '598 is *not* a proper prior art reference as its filing date of May 10, 2005 is over 13 months after the filing date of the present application.

Applicants further submit that, even if Hunter '598 would qualify as a proper reference, it still fails to teach that the at least one moveable lens is positioned inside the first chamber in which the movement of the moveable lens within the first chamber is contactlessly guided by at least one gas bearing, as required by claim 1. That is, Hunter '598 merely discloses that air bearing sleds 89 are positioned within the v-block 81. (*See, e.g., Hunter '598*: par. [0120]).

Moreover, as best understood, none of the references teach that the at least one moveable lens is positioned inside the first chamber and the movement of the moveable lens within the first chamber is contactlessly guided by at least one gas bearing, as required by claim 1. As such, none of the references are capable of curing the deficiency identified above relative to both Suzuki '109 and Hunter '598.

For at least these reasons, Applicants submit that neither the Suzuki '109 nor the Hunter '598 reference teach the claimed combination of elements recited by amended claim 1. Accordingly, claim 1 is patentable over these references. As such, Applicants respectfully request the immediate withdrawal of the rejection of claim 1, under 35 U.S.C. §102(b). In addition, because claims 1-12 and 14-21 depend from claim 1, claims 1-12 and 14-21 are patentable at least by virtue of dependency as well as for their additional recitations.

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In addition, because amended independent claims 27 and 31 recite similar patentable features to the features discussed above with respect to claim 1, claims 27 and 31 are patentable for at least the reasons identified with respect to claim 1. Also, because claims 28 and 32, depend from claims 27 and 31, respectively, claims 28 and 32 are patentable at least by virtue of dependency as well as for their additional recitations.

Regarding claim 25, Applicants submit that this claim, as filed, has always positively recited that the first housing includes a first chamber inside the first housing, a radiation source, a first optically transmissive window, and at least one moveable lens in the first chamber. In contrast to the Examiner's contentions, there is nothing in the references of record that teach the combination of features recited in claim 25. Specifically, the Examiner asserted that the Suzuki '109 reference teaches the use of a radiation source within the first chamber. However, the Suzuki '109 reference clearly shows that there is no radiation source 1 within chamber 216 and that the radiation source 1 would have to be located external to chamber 216. (See, e.g., Suzuki '109: FIGs. 1, 8).

Along these lines, like Suzuki '109, each of the other references teach that the radiation source is external to the chambers containing a moveable lens. Thus, for at least these reasons, Applicants submit that neither the Suzuki '109 reference, nor any of the remaining references, teach the claimed combination of elements recited by claim 25. Accordingly, claim 25 is patentable over these references. As such, Applicants respectfully request the immediate withdrawal of the rejection of claim 25, under 35 U.S.C. §102(b).

Also, because independent claim 29 recites similar patentable features to the features discussed above with respect to claim 25, claims 29 is patentable for at least the reasons identified with respect to claim 25. Also, because claims 26 and 30, depend from claims 25 and 29, respectively, claims 26 and 30 are patentable at least by virtue of dependency as well as for their additional recitations.

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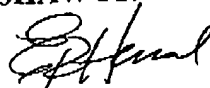
II. Conclusion.

All matters having been addressed and in view of the foregoing, Applicants respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicants' Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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Date: December 15, 2005

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